



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/977,720	10/15/2001	Paul Waxelbaum	1191	4402

7590

06/20/2003

ALAN ISRAEL
KIRCHSTEIN OTTINGER ISRAEL & SCHIFFMILLER
489 FIFTH AVENUE
NEW YORK, NY 10017

EXAMINER

LABAZE, EDWYN

ART UNIT

PAPER NUMBER

2876

DATE MAILED: 06/20/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/977,720

Applicant(s)

WAXELBAUM, PAUL

Examiner

EDWYN LABAZE

Art Unit

2876

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 01 April 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 16-21 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 16-21 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Receipt is acknowledged of amendments filed on 4/1/2003.
2. New claims 16-21 are presented for examination as a result of cancelled claims 1-15.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 16-21 are rejected under 35 U.S.C. 102(b) as being unpatented by Hollenberg (U.S. 6,091,956).

Re claims 16 and 19: Hollenberg discloses situation information system, which includes a mobile terminal 18a, b, or c carried and operated by a first person (col.11, lines 48+), including a reader electro-optically reading machine-readable indicia (also known as a bar code reader) 9i to generate message data corresponding to a human-readable message (or a text message; see col.13, lines 22-63; col.16, lines 1-67; also refer to Fig. #12 of Hollenberg) to be delivered to a second person/user (col.15, lines 14+), a memory 38a and 39a for storing identification data to uniquely identify the terminal (col.11, lines 60+; col.12, lines 64+ and col.13, lines 1-21), and a wireless terminal transceiver 32a, 32b, and 32c for transmitting over a wireless medium a data signal containing the message data and the identification data (col.11, lines 57-67 and col.12, lines 1+); a server (device directed and controlling and coordinating shared usage of a network resource as disclosed by the applicant on page 7, lines 9+ of the specification) or service provider on a network having a destination database accessed by the server (col.12, lines 1+; col.13, lines 46+ and col.14, lines 38+), including a wireless server transceiver 32d, 32e for receiving the data

Art Unit: 2876

signal (col.14, lines 17-57), and transmitting at a radio frequency over a wireless medium to a destination retrieved from the database signal containing a pager/hand-held terminals (disclosed by the applicant on page 7, lines 20+ of the specification) alert signal and a message signal corresponding to the message data (col.4, lines 52+; col.5, lines 29+ and col.14, lines 25+); a mobile pager/terminal carried by a second person/user 18a, b, and/or c, including a display 4a (touch-screen graphical) and a wireless pager receiver tuned to the radio frequency (which could be in the low or high frequency range, not disclosed by the applicant) for receiving the pager alert signal to alert/notify the second person/user that the message is available, and for receiving the message signal to deliver the message on the display 4a for viewing by the second person or user (col.12, lines 43-43; col.15, lines 28+; col.18, lines 1-67).

Re claims 17 and 20: Hollenberg teaches a system and method, wherein the reader is operative for electro-optically reading a bar code symbol as the indicia (col.7, lines 48+; col.17, lines 6-25 and col.21, lines 15+), and wherein the message on the display 4a is a text format or hypertext (col.21, lines 29+).

Re claims 18 and 21: Hollenberg discloses a system and method, wherein the terminal and the terminal receiver are physically separated units that are connected together to initiate transmission of the data signal (col.8, lines 1+; col.9, lines 51+; col.10, lines 5+ and col.30, lines 25+).

Response to Arguments

Applicant's arguments regarding claims 16-21 filed on 4/1/2003 have been fully considered but are moot in view of new ground (s) of rejections.

Art Unit: 2876

Conclusion

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Simmon et al. (U.S. 6,571,294) teaches bar code driven data acquisition and management system.

Simmon et al. (U.S. 6,493,747) discloses multi-tier data acquisition and management system comprising at least two input computers.

VanDonkelaar (U.S. 5,721,421) teaches apparatus and method for verifying a shelf tag

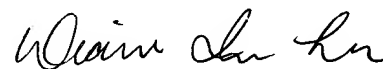
Swintek (U.S. 5,528,025) discloses apparatus and method for the wireless exchange of bar code data.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to EDWYN LABAZE whose telephone number is (703) 305-5437. The examiner can normally be reached on 7:30 AM - 4:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael G. Lee can be reached on (703) 305-3503. The fax phone numbers for the organization where this application or proceeding is assigned are (703) 308-7722 for regular communications and (703) 308-7722 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-1782.

el
Edwyn Labaze
Patent Examiner
Art Unit 2876
June 6, 2003



DIANE I. LEE
PRIMARY EXAMINER